IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.4948 OF 2003

Shri Dinkar Waman Chavan & Ors. : Petitioners

(Orig. Plaintiffs)

V/s.

Shri Shankar Vyankat Kadam & Ors. : Respondents

...

Mr. Anilkumar K. Patil for the petitioners.

Mrs.Sujara Mogre for respondent Nos.1 to 3.

...

CORAM : S.A. BOBDE, J.

February 28, 2005.

P.C.:

1. The petitioners who have sued for possession of agricultural land from the defendants have challenged the order dated 17.9.2002 refusing them permission to produce secondary evidence. The petitioners sought to produce certified copy of the sale deed i.e. secondary evidence of sale deed in their favour in respect of the suit land in an application made on 15.6.2002. In that application, they alleged that the sale deed was stolen in the course of a theft which took place about 28 years before the application. They omitted to mention this so-called theft

even in the plaint which was filed in the year 1994. In these circumstances, the trial Court rejected the petitioners' application for permission to lead secondary evidence. There is, in my view, no perversity in the exercise of discretion by the trial Court. Indeed, the petitioners' version as regards the loss of the title deeds does not inspire confidence.

2. Accordingly, the petition is dismissed.

Sd/-

S.A. BOBDE, J.